IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 7451 of 2005

Between:

J.Papinaidu, S/o. Sanyasappadu,
APSTRC., Work Shop,

Vijayanagaram, Vijayanagaram District.

..... PETITIONER

AND

1 APSRTC., The Vice-Chairman and Managing Director,
Musheerabad, Hyderabad.
2 The Works Manager, Zonal Works Shop,

APSRTC., Vizianagaram,
Vizianagaram District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or directions, more in the nature of writ of Certiorari calling the records in office Order No.P2/255/(10)/2004-2WS-VZM dt.14-12-2004 on the file of 2nd respondent herein and quash the same as illegal and arbitrary with all consequential benefits including arrears.

Counsel for the Petitioner :Mr.P.GOVINDA RAJULU

Counsel for the Respondents: KUM.B.G.UMA DEVI

The Court at the stage of admission made the following :

ORDER:

This writ petition is filed by the petitioner aggrieved by the order passed by the second respondent in withdrawing the incentive increment, which was granted to the petitioner as his wife had undergone family planning operation. However, the petitioner's wife died subsequently, and thereafter, the petitioner contacted second marriage. At that time also, he was found drawing the incentive increment, which was originally granted. Therefore, the impugned order was passed withdrawing the incentive increments originally granted from the date of remarriage, as it was pointed out during the course of audit.

According to the petitioner, under the scheme formulated by the Corporation a circular issued to that effect, an employee is entitled for incentive increments when one of the spouses have undergone family planning operation. Once the petitioner was granted incentive increment on that count, even though the petitioner contacted second marriage after the demise of the first wife, the incentive increment cannot be withdrawn as it was given as personal pay. Therefore, the impugned action of the respondent is illegal and without jurisdiction, and sought to set aside the same.

Learned counsel for the petitioner also contended that the impugned order was passed without giving a notice, and even on that count also, it is liable to be dismissed.

Learned standing counsel for the respondent-Corporation, on the other hand contended that the incentive increment for undergoing family planning operation was granted for a specific purpose. If the specific purpose ceases to exist, the petitioner is not entitled for availing the benefit of incentive increment, which was originally sanctioned. Therefore, the order passed by the respondent-authorities is just and proper.

Heard both sides and considered the material on record.

Admittedly, the petitioner was granted one family planning incentive increment. But, the petitioner's first wife died subsequently. Thereafter, it is stated that after obtaining permission from the Corporation, he contacted second marriage and in fact a child was also born to the second wife. The audit party noticed about availing of the benefit of incentive family planning increment even after the remarriage and a child was born to the petitioner. Therefore, the proceedings were initiated by the 2nd respondent. After verification that the petitioner's first wife died on 16-06-1995, and

he contacted second marriage, the authorities have stopped the incentive increment from the date of remarriage. Hence, the said action of the respondent-Corporation cannot be found fault. The incentive increment for family planning is given only to those employees who are following the said family planning and not for the employees who had discontinued to follow. Therefore, the claim of the petitioner is illegal apart from contrary to the circular of the Corporation dated 15-12-1983.

Under the above circumstances, there is no merit in the contention of the petitioner and the respondents are entitled to withdraw the incentive increment, which was already granted to the petitioner.

Accordingly, the writ petition is dismissed as devoid of merits. No costs.

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S. ANANDA REDDY, J.

Dated: 13..07..2005.

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To

1 APSTRC., The Vice-Chairman and Managing Director,
Musheerabad, Hyderabad.

2 The Works Manager, Zonal Works Shop,

APSRTC., Vizianagaram,
Vizianagaram District.

3 Two CD copies